

REMARKS/ARGUMENTS

This amendment is presented in response to the official action dated May 21, 2003. The indication in that action that claims 2-4 define patentable subject matter is gratefully acknowledged. Remarks regarding specific objections/rejections made in the action are presented below.

Claim Objections

In the action, claim 5 was objected to because of the occurrence of a period after the word "ends" in the middle of the claim. This was the result of a typographical error that occurred when the text of claim 5 was amended and presented in applicants' previous response. In preparing that last response, the original text of claim 5 as filed was used accidentally, rather than claim 5 as it stood after the preliminary amendment. The typographical errors in claim 5 that resulted from that error have now been corrected and claim 5 appears as intended and consistent with all previous amendments.

Claim Rejections - 35 U.S.C. §112

In the action, claims 6 and 7 were rejected because the element of an "alignment device" did not have a sufficient antecedent basis. Claims 6 and 7 now have been corrected to properly introduce that element. Additionally, "alignment device" has been re-phrased as "alignment tool" to more closely follow the description of the element in the specification at pages 11-12. The intended scope of claims 6 and 7 has not changed with this amendment. Reconsideration of the claims is requested.

Claim Rejections - 35 U.S.C. §102

In the action, claims 1, 5-8 and 9-11 were rejected as being anticipated by U.S. patent nos. 2,761,446 (Reed), 4,223,674 (Fluent et al.), and 4,762,515 (Grimm). In the action, it was remarked that each of the references disclose "pellets and a flexible implantable body having a hollow interior configured to receive and retain pellets within

the interior after the flexible and plantable body has been implanted within tissue." Applicants traverse the rejections because none of the references disclose a flexible implantable body as recited in the claims.

The statement in the action that each of the references disclose a "flexible implantable body configured to receive and retain pellets after implantation" is not accurate. Each of the cited references is directed to pellet implant guns for inserting therapeutic pellets into animal tissue. The pellets are prepackaged in commercially available cartridges configured to fit readily into the implant gun.

Applicants assume that the basis for the claim rejections was that the "cartridge" disclosed in each reference was analogous to the "flexible implantable body" recited in applicants' claims. However, in each of the references, it is clear that the cartridges that hold the pellets remain in the implant gun during the implantation procedure and after the pellet is implanted. The cartridge is not disclosed in the references as being implanted or being "implantable". The cartridge merely holds the pellets in a convenient form for loading into the gun. Also, the cartridge holds the pellets in alignment so that a ramrod can be advanced through the cartridge to push a pellet from the gun into a hollow needle that has been inserted into the tissue. In each of the devices, the ramrod continues to advance the pellet (alone) out of the needle while the device is withdrawn from the tissue so that the pellet is left behind.

In each of the references, the pellet alone is placed in tissue. The disclosed cartridge in each of the references is not implantable and is not disclosed as being implanted in tissue. A significant aspect of applicants' invention is that an implantable device is placed in tissue together with a pellet so that, complimentary therapeutic benefits can be experienced from each. Reconsideration of the prior art rejections is requested.

Consideration of Previously Submitted Information Disclosure Statements

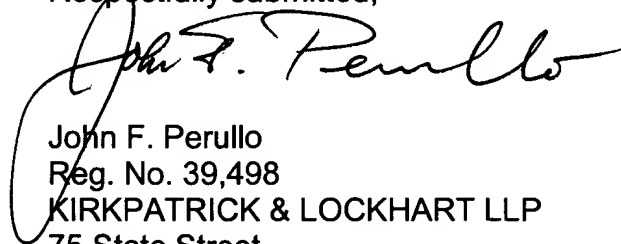
Applicants request confirmation that information disclosure statements (IDSs) filed at the USPTO on December 19, 2002, and on February 24, 2003, have been considered by the examiner. Applicants have not received copies of the 1449 forms

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Amdt. dated May 21, 2003
Reply to Office action of June 21, 2003

initialed by the examiner. Attached to this amendment are two pages printed out from the USPTO's Patent Application Information Retrieval system (PAIR) indicating that the IDSs in question have been received into the file wrapper. If additional evidence that the IDSs have been submitted to and received by the PTO is required, the examiner is requested to contact the undersigned representative.

In light of the foregoing amendments and explanatory remarks, reconsideration of the claim rejections is requested.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John F. Perullo", is written over the typed name and firm name.

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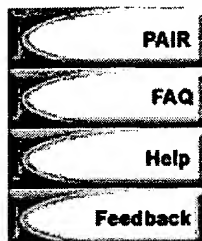
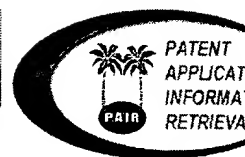
Attorney Docket No.: B0410/7278
Date: August 21, 2003



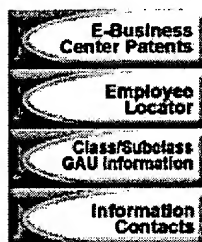
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PATENT APPLICATION INFORMATION RETRIEVAL



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Search results for application number: 09/743,726			
Application Number:	09/743,726	Customer Number:	22832
Filing or 371(c) Date:	04-12-2001	Status:	Non Final Action
Application Type:	Utility	Status Date:	05-21-2003
Examiner Name:	MENDEZ, MANUEL A	Location:	TC 3700 CENTRA FILES, CP2-3C24
Group Art Unit:	3763	Location Date:	05-22-2003
Confirmation Number:	7561	Earliest Publication No:	
Attorney Docket Number:	B0410/7278	Earliest Publication Date:	
Class/ Sub-Class:	604/288.04	Patent Number:	
First Named Inventor:	Richard Gambale, Tyngsboro, MA	Issue Date of Patent:	
Title Of Invention: Agent delivery systems			

[Foreign Priority](#)
[Continuity Data](#)
[Publication Review](#)

File Contents History

Number	Date	Contents Description
24	05-21-2003	Mail Non-Final Rejection
23	05-19-2003	Non-Final Rejection
22	02-24-2003	Information Disclosure Statement (IDS) Filed
21	12-19-2002	Information Disclosure Statement (IDS) Filed
20	12-31-2002	Date Forwarded to Examiner
19	12-19-2002	Response after Non-Final Action
18	12-19-2002	Request for Extension of Time - Granted
17	07-19-2002	Mail Non-Final Rejection
16	07-16-2002	Non-Final Rejection
15	05-10-2002	Case Docketed to Examiner in GAU
14	04-12-2001	Preliminary Amendment
13	06-12-2001	Case Docketed to Examiner in GAU
12	05-21-2001	Application Dispatched from OIPE
11	05-11-2001	IFW Scan & PACR Auto Security Review
10	04-30-2001	Released to OIPE
9	04-30-2001	Notice of DO/EO Acceptance Mailed
8	04-12-2001	Applicant 371 Filing Paper Received
7	03-05-2001	Notice of DO/EO Missing Requirements Mailed
6	02-15-2001	371 Application Preexamination Docketing
5	02-15-2001	371 Application Preexamination Docketing

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4	01-23-2001	371 Application Preexamination Docketing
3	01-12-2001	Receipt of 371 Request
2	01-23-2001	Correspondenc Address Change
1	04-12-2001	Initial Exam Team nn

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